

BINGHAM McCUTCHEN LLP
DONN P. PICKETT (SBN 72257)
GEOFFREY M. HOWARD (SBN 157468)
HOLLY A. HOUSE (SBN 136045)
ZACHARY J. ALINDER (SBN 209009)
BREE HANN (SBN 215695)
Three Embarcadero Center
San Francisco, CA 94111-4067
Telephone: (415) 393-2000
Facsimile: (415) 393-2286
donn.pickett@bingham.com
geoff.howard@bingham.com
holly.house@bingham.com
zachary.alinder@bingham.com
bree.hann@bingham.com

DORIAN DALEY (SBN 129049)
JENNIFER GLOSS (SBN 154227)
500 Oracle Parkway
M/S 5op7
Redwood City, CA 94070
Telephone: (650) 506-4846
Facsimile: (650) 506-7114
dorian.daley@oracle.com
jennifer.gloss@oracle.com

Attorneys for Plaintiffs
Oracle USA, Inc., Oracle International
Corporation, Oracle EMEA Limited, and
Siebel Systems, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ORACLE USA, INC., *et al.*,
Plaintiffs,
v.
SAP AG, *et al.*,
Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

**STIPULATED REQUEST AND
[PROPOSED] ORDER ENLARGING
TIME FOR ORACLE TO OBJECT
TO DISCOVERY ORDER
[Fed. R. Civ. Proc. 6(b), Civil L.R. 6-1,
6-2, 7-1, 7-12]**

Judge: Hon. Phyllis J. Hamilton

STIPULATED REQUEST TO ENLARGE TIME PER L.R. 6-2

I. GOOD CAUSE EXISTS FOR REQUESTED MINIMAL EXTENSION

Plaintiffs Oracle USA, Inc., Oracle International Corporation, Oracle EMEA Limited and Siebel Systems, Inc. (“Plaintiffs”) respectfully submit this stipulated request and [proposed] order pursuant to Federal Rule of Civil Procedure 6(b) and Civil Local Rules 6-1, 6-2, 7-1, and 7-12 requesting that the Court enter an Order enlarging the time within which Oracle may object to the September 17, 2009 Discovery Order, Docket No. 482 (the “Discovery Order”).

The proposed extension, which Defendants do not oppose, would enlarge the time within which Oracle may object to the Discovery Order by approximately two weeks to, and including, October 19, 2009. Oracle does not believe that this will impact the existing case schedule. *See* accompanying Declaration of Holly House in Support of Stipulated Request to Enlarge Time to Object to Discovery Order (“House Decl.”), ¶¶ 2-4. Oracle requires this brief extension of time to consider whether to file any objection to the Discovery Order and, if so, to draft such objection.

The Discovery Order is a detailed 26-page ruling that requires in-depth analysis and careful consideration. *Id.*, ¶ 2; *see also* Order (Docket No. 482). It precludes Plaintiffs from seeking at trial as part of their lost profits measure of damages a variety of types of damages. *Id.*; *see also* Order (Docket No. 482). The dollar value associated with the precluded damages is significant. House Decl., ¶ 2.

Magistrate Laporte issued the Order as a non-dispositive discovery ruling. *Id.*, ¶ 3; *see also* Order (Docket No. 482). Pursuant to Local Rule 72-a, Plaintiffs therefore have only 10 court days from service to file objections. Because of the complexity and importance of the issues at stake in the Order which require serious consideration and analysis by Plaintiffs’ in-house and outside counsel and executives, because of the competing case demands that have tied up Plaintiffs’ counsel since issuance of the Order (in particular, that Plaintiffs’ Opposition to Defendants’ Motion for Partial Summary Judgment on Plaintiff’s Hypothetical [Fair Market

Value] License Damages was due and filed yesterday (*see* Docket No. 483)), Plaintiffs' counsel asked Defendants' counsel if they would agree to an extension of Oracle's time to file objections to the Order until Monday October 19, 2009 (*i.e.* 30 days from electronic receipt of the Order). House Decl., ¶ 3.

Defendants' counsel do not oppose this extension request and, therefore, have stipulated below to it. *Id.* Moreover, there have been no prior extensions of time with respect to the Discovery Order at issue here, and the requested time modification will not have any significant impact on the schedule for the case. *Id.*, ¶ 4.

On these facts, the normal 10 day time period for such objections under Fed. R. Civ. P. 72(a) is insufficient, and good cause exists to order a brief extension of that deadline that will allow Plaintiffs to object to the Discovery Order up to, and including, October 19, 2009.

DATED: September 24, 2009

BINGHAM McCUTCHEN LLP

By: /s/ Holly A. House

Holly A. House
Attorneys for Plaintiffs
Oracle USA, Inc., Oracle International
Corporation, Oracle EMEA Limited, and
Siebel Systems, Inc.

In accordance with General Order No. 45, Rule X, the above signatory attests that concurrence in the filing of this document has been obtained from the signatory below.

DATED: September 24, 2009

JONES DAY

By: /s/ Greg Lanier

Greg Lanier
Attorneys for Defendants
SAP AG, SAP America, Inc., and
TomorrowNow, Inc.

ORDER

PURSUANT TO STIPULATION and **GOOD CAUSE** appearing to grant the Stipulated Request, the date for Plaintiffs Oracle USA, Inc. et al. to file any objection to the September 17, 2009 Discovery Order, Docket No. 482, shall be extended to, and including, October 19, 2009.

IT IS SO ORDERED.

Date: _____, 2009

Hon. Phyllis J. Hamilton
United States District Judge